

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOSEFINA FLORES  
13016 Point Reyes Place  
Cerritos, CA 90701  
Registered Nurse License No. 298724

Respondent.

Case No. 2008-188

OAH No. L- 2008070485

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective on January 21, 2009.

It is so ORDERED December 22, 2008.

*LaFrancine W. Tat*

FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARC D. GREENBAUM  
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6 Attorneys for Complainant  
7  
8

9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 JOSEFINA FLORES  
13016 Point Reyes Place  
14 Cerritos, CA 90701  
Registered Nurse License No. 298724

15 Respondent.  
16

Case No. 2008-188

OAH No. L-2008070485

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Complainant Ruth Ann Terry, M.P.H, R.N. is the Executive Officer of the  
22 Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Anne Hunter, Deputy Attorney General.

25 2. Respondent Josefina Flores is representing herself in this proceeding and  
26 has chosen not to exercise her right to be represented by counsel.

27 3. On or about December 31, 1978, the Board of Registered Nursing,  
28 Department of Consumer Affairs (Board), issued Registered Nurse License No. 298724 to

1 respondent. The Registered Nurse License was in full force and effect at all times relevant to the  
2 charges brought in Accusation No. 2008-188 and will expire on April 30, 2010, unless renewed.

### 3 JURISDICTION

4 4. Accusation No. 2008-188 was filed before the Board, and is currently  
5 pending against respondent. The accusation and all other statutorily required documents were  
6 properly served on respondent on January 3, 2008. Respondent timely filed her Notice of  
7 Defense contesting the accusation. A copy of Accusation No. 2008-188 is attached as exhibit A  
8 and incorporated herein by reference.

### 9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations  
11 in Accusation No. 2008-188. Respondent has also carefully read, and understands the effects of  
12 this Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the  
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
15 counsel at her own expense; the right to confront and cross-examine the witnesses against her;  
16 the right to present evidence and to testify on her own behalf; the right to the issuance of  
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
18 reconsideration and court review of an adverse decision; and all other rights accorded by the  
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
21 each and every right set forth above.

### 22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in  
24 Accusation No. 2008-188.

25 9. Respondent agrees that her Registered Nurse License is subject to  
26 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the  
27 Disciplinary Order below.

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1 appear in person at interviews/meetings as directed by the Board or its designated  
2 representatives.

3           4.     **Residency, Practice, or Licensure Outside of State.** Periods of  
4 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
5 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
6 of California. respondent must provide written notice to the Board within 15 days of any change  
7 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
8 returning to practice in this state.

9           Respondent shall provide a list of all states and territories where she has ever been  
10 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
11 provide information regarding the status of each license and any changes in such license status  
12 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
13 new nursing license during the term of probation.

14           5.     **Submit Written Reports.** Respondent, during the period of probation,  
15 shall submit or cause to be submitted such written reports/declarations and verification of actions  
16 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
17 statements relative to respondent's compliance with all the conditions of the Board's Probation  
18 Program. Respondent shall immediately execute all release of information forms as may be  
19 required by the Board or its representatives.

20           Respondent shall provide a copy of this Decision to the nursing regulatory agency  
21 in every state and territory in which she has a registered nurse license.

22           6.     **Function as a Registered Nurse.** Respondent, during the period of  
23 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
24 hours per week for 6 consecutive months or as determined by the Board.

25           For purposes of compliance with the section, "engage in the practice of registered  
26 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
27 work in any non-direct patient care position that requires licensure as a registered nurse.

28           The Board may require that advanced practice nurses engage in advanced practice

1 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
2 Board.

3 If respondent has not complied with this condition during the probationary term,  
4 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
5 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
6 grant an extension of respondent's probation period up to one year without further hearing in  
7 order to comply with this condition. During the one year extension, all original conditions of  
8 probation shall apply.

9 7. **Employment Approval and Reporting Requirements.** Respondent  
10 shall obtain prior approval from the Board before commencing or continuing any employment,  
11 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
12 performance evaluations and other employment related reports as a registered nurse upon request  
13 of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate  
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, respondent shall notify the Board in writing within  
17 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
18 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
19 terminated or separated, regardless of cause, from any nursing, or other health care related  
20 employment with a full explanation of the circumstances surrounding the termination or  
21 separation.

22 8. **Supervision.** Respondent shall obtain prior approval from the Board  
23 regarding Respondent's level of supervision and/or collaboration before commencing or  
24 continuing any employment as a registered nurse, or education and training that includes patient  
25 care.

26 Respondent shall practice only under the direct supervision of a registered nurse  
27 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative

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1 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
2 are approved.

3 Respondent's level of supervision and/or collaboration may include, but is not  
4 limited to the following:

5 (a) Maximum - The individual providing supervision and/or collaboration is  
6 present in the patient care area or in any other work setting at all times.

7 (b) Moderate - The individual providing supervision and/or collaboration is in  
8 the patient care unit or in any other work setting at least half the hours respondent works.

9 (c) Minimum - The individual providing supervision and/or collaboration has  
10 person-to-person communication with respondent at least twice during each shift worked.

11 (d) Home Health Care - If respondent is approved to work in the home health  
12 care setting, the individual providing supervision and/or collaboration shall have person-to-  
13 person communication with respondent as required by the Board each work day. Respondent  
14 shall maintain telephone or other telecommunication contact with the individual providing  
15 supervision and/or collaboration as required by the Board during each work day. The individual  
16 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
17 site visits to patients' homes visited by respondent with or without respondent present.

18 9. **Employment Limitations.** Respondent shall not work for a nurse's  
19 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
20 traveling nurse, or for an in-house nursing pool.

21 Respondent shall not work for a licensed home health agency as a visiting nurse  
22 unless the registered nursing supervision and other protections for home visits have been  
23 approved by the Board. Respondent shall not work in any other registered nursing occupation  
24 where home visits are required.

25 Respondent shall not work in any health care setting as a supervisor of registered  
26 nurses. The Board may additionally restrict respondent from supervising licensed vocational  
27 nurses and/or unlicensed assistive personnel on a case-by-case basis.

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Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1500.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of respondent's license.

1 If during the period of probation, an accusation or petition to revoke probation has  
2 been filed against respondent's license or the Attorney General's Office has been requested to  
3 prepare an accusation or petition to revoke probation against respondent's license, the  
4 probationary period shall automatically be extended and shall not expire until the accusation or  
5 petition has been acted upon by the Board.

6 13. **License Surrender.** During respondent's term of probation, if she ceases  
7 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
8 probation, respondent may surrender her license to the Board. The Board reserves the right to  
9 evaluate respondent's request and to exercise its discretion whether to grant the request, or to  
10 take any other action deemed appropriate and reasonable under the circumstances, without  
11 further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent  
12 will no longer be subject to the conditions of probation.

13 Surrender of respondent's license shall be considered a disciplinary action and  
14 shall become a part of respondent's license history with the Board. A registered nurse whose  
15 license has been surrendered may petition the Board for reinstatement no sooner than the  
16 following minimum periods from the effective date of the disciplinary decision:

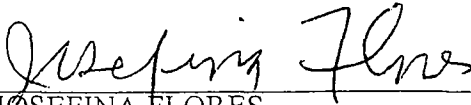
17 (1) Two years for reinstatement of a license that was surrendered for any  
18 reason other than a mental or physical illness; or

19 (2) One year for a license surrendered for a mental or physical illness.

20 **ACCEPTANCE**

21 I have carefully read the Stipulated Settlement and Disciplinary Order. I  
22 understand the stipulation and the effect it will have on my Registered Nurse License. I enter  
23 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,  
24 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

25 DATED: 08/24/08

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27   
28 JOSEFINA FLORES  
Respondent


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: 8/27/2008

EDMUND G. BROWN JR., Attorney General  
of the State of California

MARC D. GREENBAUM  
Supervising Deputy Attorney General

  
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ANNE HUNTER  
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2006601329  
60325005.wpd

**Exhibit A**  
**Accusation No. 2008-188**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 ANNE HUNTER, State Bar No. 136982  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2114  
Facsimile: (213) 897-2804

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2008-128*

12 JOSEFINA FLORES  
13 13016 Point Reyes Place  
Cerritos, CA 90701

**A C C U S A T I O N**

14 Registered Nurse License No. 298724  
15 Nurse Anesthetist License No. 282

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Complainant Ruth Ann Terry, M.P.H., R.N. brings this accusation solely  
22 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs (Board).

24 2. On or about December 31, 1978, the Board of Registered Nursing issued  
25 Registered Nurse License Number 298724 to respondent Josefina Flores. The Registered Nurse  
26 License was in full force and effect at all times relevant to the charges brought herein and will  
27 expire on April 30, 2008, unless renewed.

28 3. On or about March 15, 1984, the Board issued Nurse Anesthetist License

1 No. 282 to Respondent. The Nurse Anesthetist License was in full force and effect at all times  
2 relevant to the charges brought herein and will expire on April 30, 2008, unless renewed.

### 3 JURISDICTION

4 4. This accusation is brought before the Board of Registered Nursing  
5 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
6 references are to the Business and Professions Code unless otherwise indicated.

### 7 STATUTORY PROVISIONS

8 5. Section 2750 of the Business and Professions Code (Code) provides, in  
9 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
10 temporary or an inactive license, for any reason provided in Article 3 (commencing with section  
11 2750) of the Nursing Practice Act.

12 6. Code section 2764 provides, in pertinent part, that the expiration of a  
13 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
14 against the licensee or to render a decision imposing discipline on the license. Under Code  
15 section 2811, subdivision (b), the Board may renew an expired license at any time within eight  
16 years after the expiration.

17 7. Code section 2761 provides, in pertinent part:

18 "The board may take disciplinary action against a certified or licensed nurse or  
19 deny an application for a certificate or license for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed  
22 nursing functions.

23 " . . . .

24 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or  
25 abetting the violating of, or conspiring to violate any provision or term of this chapter [the  
26 Nursing Practice Act] or regulations adopted pursuant to it."

27 8. California Code of Regulations, title 16, section 1442, states:

28 "As used in Section 2761 of the code, 'gross negligence' includes an extreme

1 departure from the standard of care which, under similar circumstances, would have ordinarily  
2 been exercised by a competent registered nurse. Such an extreme departure means the repeated  
3 failure to provide nursing care as required or failure to provide care or to exercise ordinary  
4 precaution in a single situation which the nurse knew, or should have known, could have  
5 jeopardized the client's health or life."

6 9. California Code of Regulations, title 16, section 1444, states:

7 "A conviction or act shall be considered to be substantially related to the  
8 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
9 present or potential unfitness of a registered nurse to practice in a manner consistent with the  
10 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the  
11 following:

12 "(a) Assaultive or abusive conduct including, but not limited to, those violations  
13 listed in subdivision (d) of Penal Code Section 11160.

14 "(b) Failure to comply with any mandatory reporting requirements.

15 "(c) Theft, dishonesty, fraud, or deceit.

16 "(d) Any conviction or act subject to an order of registration pursuant to Section  
17 290 of the Penal Code."

18 10. California Code of Regulations, title 16, section 1443, states:

19 "As used in Section 2761 of the code, 'incompetence' means the lack of possession  
20 of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed  
21 and exercised by a competent registered nurse as described in Section 1443.5."

22 11. California Code of Regulations, title 16, section 1443.5 states:

23 "A registered nurse shall be considered to be competent when he/she consistently  
24 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
25 sciences in applying the nursing process, as follows:

26 "(1) Formulates a nursing diagnosis through observation of the client's physical  
27 condition and behavior, and through interpretation of information obtained from the client and  
28 others, including the health team.

1                   "(2) Formulates a care plan, in collaboration with the client, which ensures that  
2 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and  
3 protection, and for disease prevention and restorative measures.

4                   "(3) Performs skills essential to the kind of nursing action to be taken, explains  
5 the health treatment to the client and family and teaches the client and family how to care for the  
6 client's health needs.

7                   "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
8 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
9 effectively supervises nursing care being given by subordinates.

10                  "(5) Evaluates the effectiveness of the care plan through observation of the  
11 client's physical condition and behavior, signs and symptoms of illness, and reactions to  
12 treatment and through communication with the client and health team members, and modifies the  
13 plan as needed.

14                  "(6) Acts as the client's advocate, as circumstances require, by initiating action to  
15 improve health care or to change decisions or activities which are against the interests or wishes  
16 of the client, and by giving the client the opportunity to make informed decisions about health  
17 care before it is provided."

18                  12.       Code section 118, subdivision (b), provides that the suspension,  
19 expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to  
20 proceed with a disciplinary action during the period within which the license may be renewed,  
21 restored, reissued or reinstated.

22                  13.       Code section 125.3 provides, in pertinent part, that the Board may request  
23 the administrative law judge to direct a licensee found to have committed a violation or  
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
25 and enforcement of the case.

#### 26                                   FACTUAL ALLEGATIONS

27                  14.       On or about January 5, 2004, the Board received a complaint from the  
28 Department of Health Services that a recertification survey they conducted at Wescove Home



1 Health Services located at 306 North Lark Ellen in Covina, California, revealed that respondent  
2 Josefina Flores had falsified two patients' records.

3 **Patient No. 16<sup>1</sup>**

4 15. Respondent recorded information on the initial nursing assessment form  
5 for Patient No. 16. Both the patient's and respondent's signatures on the form are dated October  
6 30, 2003. The assessment form is incomplete with regard to the patient's pain, nutrition, skin, GI  
7 and cardiac assessments. The patient's vital signs are not recorded on the form. In addition, the  
8 form does not indicate that respondent provided the patient with any teaching about diet. The  
9 medical doctor who purportedly signed the order for home health care stated that he did not order  
10 home care for Patient No. 16 and did not sign the order. An administrator of the residential care  
11 facility where Patient No. 16 resided stated that respondent did not visit the patient.

12 **Patient No. 19**

13 16. Respondent recorded information on the initial nursing assessment form  
14 for Patient No. 19. Respondent's signature on the form is dated August 1, 2003; the patient's  
15 signature is dated August 1, 2002. The family of Patient No. 19 did not know the medical doctor  
16 listed on the Plan of Care, and stated that the patient's medical doctor did not order home health  
17 services for him. In addition, the family of Patient No. 19 stated that respondent did not visit the  
18 patient.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct: Patient No. 16)**

21 17. Respondent is subject to disciplinary action under Code section 2761,  
22 subdivision (a), and Title 16 California Code of Regulations section 1444, subdivision ©), in that  
23 she dishonestly, fraudulently or deceitfully entered patient assessment information into patients'  
24 records that she had not assessed. The circumstances alleged in paragraph 15 above are re-  
25 alleged and incorporated herein by reference as though fully set forth.

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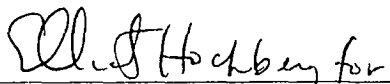
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28 1. Patients are identified by number to protect their privacy.



1 investigation and enforcement of this case, pursuant to Business and Professions Code section  
2 125.3; and

3 3. Taking such other and further action as deemed necessary and proper.

4  
5 DATED: 12/5/07

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7   
8 RUTH ANN TERRY, M.P.H., R.N.  
9 Executive Officer  
10 Board of Registered Nursing  
11 Department of Consumer Affairs  
12 State of California

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14 Complainant

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